

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2008

CORAM

THE HONOURABLE MR. JUSTICE T. SUDANTHIRAM

Crl.O.P.No.37159 of 2007

P.Ravindran

... Petitioner

Versus

1. State represented by  
The Deputy Superintendent of Police  
Vigilance and Anti-corruption Wing  
Cuddalore.

2.M.R.K.Panneerselvam

3.Senthamilselvi

... Respondents

Criminal Original Petition filed under Section 482  
Cr.P.C., to direct the Chief Judicial Magistrate, Cuddalore to grant  
certified copies of the documents pertaining to the Special C.C.No.2  
of 2006.

1. Certified copy of FIR
2. Certified copy of Charge Sheet
3. Certified copy of Docket Sheet Endorsement
4. Certified copy of Petition in Crl.M.P.No.1105/2006
5. Certified copy of counter in Crl.M.P.No.1105/2006
6. Certified copy of Petition in Crl.m.P.No.1106/2006
7. Certified copy of Counter in Crl.M.P.No.1106/2006
8. Certified copy of order in Crl.M.P.No.1105/2006
9. Certified copy of order in Crl.M.P.No.1106/2006
10. Certified copies of 161 statements of witnesses
11. Certified copy of the list of witnesses
12. Certified copy of the list of Assets

For Petitioner

: Mr.Jayakumar

for Mr.V.Jayaprakash Narayanan



For Respondents : Mr.C.Prakasam  
for R2 and R3.  
Mr.N.Kumanan  
Government Advocate (Crl.side)  
for R1.

### ORDER

This petition is filed seeking direction to the learned Chief Judicial Magistrate, Cuddalore to grant certified copies of the documents pertaining to Special C.C.No.2 of 2006 on his file. The first respondent herein filed a case against the respondents 2 and 3 in Special C.C.No.2 of 2006, for offence under Sections 13(2), 13(i) (c) of the Prevention of Corruption Act r/w 109 IPC for acquisition and possession of the properties which is disproportionate to the known sources of income. The accused were discharged from the proceedings by order of the learned Magistrate dated 02.07.2007 in Crl.M.P.No.1105 and 1106 of 2006. The petitioner herein is a former Government Pleader and a practising Advocate before the Court at Cuddalore. He filed an application in C.A.No.145 of 2007, before the learned Magistrate seeking certified copy of the FIR, final report, docket sheet endorsement, copy of the petitions, counter, copy of the order, copy of this statement recorded under Section 161 Cr.P.C, copy of the list of witnesses and list of persons. The petitioner herein required the copy of these documents for the purpose of preferring a criminal revision against the order passed by the learned Chief Judicial Magistrate, Cuddalore, discharging the accused who are respondents 2 and 3.

2. The learned Chief Judicial Magistrate, dismissed the application filed by the petitioner herein stating that in a police case, a private party has no locus standi to ask for the certified copies and the petitioner herein is not the affected party to ask for copies. Aggrieved by the order of the Chief Judicial Magistrate, the petitioner herein has filed this petition before the Honourable High Court seeking direction to the Magistrate to furnish copies required by the petitioner.

3. The learned counsel for the petitioner submits that the petitioner intends to prefer a revision against the order of discharge passed in favour of the accused and submits that he has locus standi to prefer a revision.

4. The learned counsel for the petitioner also relied on the following decisions in support of the above contention:

a. Krishnan and another vs. Krishnaveni and another  
(1997 Crl.L.J 1519)



b. K.Pandurangan etc., Vs. S.S.R.Velusamy and another  
(2003 CrI.L.J 4964)

c. K.Anbazhagan vs. Superintendent of Police and others  
(2003 AIR SCW 6468)

5. The learned counsel for the petitioner further submits that he is entitled for the copies of the documents on payment of charges and he also relied on the decisions rendered by this Court in a similar situation in CrI.O.P.No.10330 of 2007 dated 04.10.2007 and in CrI.O.P.No.18533 of 2007 dated 27.02.2008, wherein orders were passed for granting certified copies of the documents to third parties.

6. The learned Government Advocate submitted that the petitioner is not a party concerned in this case and he has no locus standi to apply for the copies of the orders and other documents and he has no right to file revision against the order of the learned Chief Judicial Magistrate.

7. The learned counsel for the respondents 2 and 3 submitted that there is no rule permitting the petitioner herein who is a third party to seek for copies of the case records.

8. This Court considers the submissions made by both parties. The first issue to be decided is whether the petitioner herein who is the third party is entitled to file a revision petition against the order of the learned Chief Judicial Magistrate, discharging the accused. If he has such locus standi to file a revision, then he is entitled to seek for certified copies of the records of the case, and if so, under what provision.

9. Section 397 Cr.P.C., reads as follows:

"397. Calling for records to exercise power of revision- (1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding. Sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation: All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purpose of this sub-section and



section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

10. The Honourable Supreme Court in the decision rendered in *Prishnan and another vs. Krishnaveni and another* (1997 Crl.L.J. 519), observed as follows:

"9. The inherent power of the High Court is not one conferred by the Code but one which the High Court already has in it and which is preserved by the Code. The object of S.397(3) is to put a bar on simultaneous revisional applications to the High Court and the Court of Sessions so as to prevent unnecessary delay and multiplicity of proceedings. As seen, under sub-section (3) of S.397, revisional jurisdiction can be invoked by "any person". However, under S.11 of the IPC, 'person' includes any Company or Association or body of persons, whether incorporated or not. The word 'person' would, therefore, include not only the natural person but also juridical person in whatever form designated and whether incorporated or not. By implication, the State stands excluded from the purview of the word 'person' for the purpose of limiting its right to avail the revisional power of the High Courts under S.397(1) of the Code for the reason that the State, being the prosecutor of the offender, is enjoined to conduct prosecution on behalf of the society and to take such remedial steps as to deems proper. The object behind criminal law is to deems proper. The object behind criminal law is to maintain law, public order, stability as also peace and progress in the society."

11. In another decision of the Honourable Supreme Court reported in 2003 Crl.L.J 4964 (*K.Pandurangan etc., v. S.S.R.Velusamy and another*), it has been observed as follows:

"6. So far as the first question as to the maintainability of the revision at the instance of the complainant is concerned, we think the said argument has only to be noted to be rejected. Under the provisions of Code of Criminal procedure, 1973, the Court has suo motu power of revision, if that be so, the question of the same being invoked at the instance of an outsider would not



make any difference because ultimately it is the power of revision which is already vested with the High Court statutorily that is being exercised by the High Court. Therefore, whether the same is done by itself or at the instance of a third party will not affect such power of the High Court. In this regard, we may note the following judgment of this Court in the case of Nadir Khan v. The State (Delhi Administration), (AIR 1976 SC 2205)."

12. The Honourable Supreme Court in the decision reported in *C. Anbazhagan v. Superintendent of Police and others* (2003 AIR SCW 5468), observed as follows:

"12. The second leg of argument what appears to be an argument of despair, is of locus standi of the petitioner. In point of fact this question need not detain us any longer because on 28.02.2003, this Court had already granted permission to the petitioner to file the petition. No application has been taken out to revoke the permission so granted. Therefore, this question becomes mere academic. However, since the question involved is of public importance, we proceed to answer the question. Mr. V.A. Bobde, learned senior Counsel, appearing for respondent Nos. 3 and 4 in C.C.No.7 of 1997 and respondent No.3 in C.C.No.2 of 2001 contended that in view of the provision of sub-section (2) of Section 406, Cr.P.C., the petition is maintainable only when motion is moved by the Attorney General or by "party interested". According to the counsel, it is the "party interested" and not a "person interested" and, therefore, only Attorney General or a "party interested" has locus standi to file application and the petitioner not being a party to the proceeding is not a "party interested" and has no locus standi to file the present petition. We are unable to accept this submission for more than one reason. It will be noticed that the "party interested" has not been defined under Cr.P.C. The word "party interested" is of a wide import and, therefore, it has to be given a wider meaning. If it was the intendment of the legislature to give restricted meaning then they would have used words to the effect, "party to the proceedings."

"13. It has also been urged that the petitioner being a political opponent of respondent No.2, these petitions have been launched against respondent No.2 on ground of political vendetta. This submission has also no force. In a democracy, the political opponents play an important role both inside and outside the House. They are the watchdogs of the Government in power. It will be their effective weapon to counter the misdeeds and mischiefs of the Government in power. They are the mouthpiece to



ventilate the grievances of the public at large, if genuinely and unbiasedly projected. In that view of the matter, being a political opponent, the petitioner is a vitally interested party in the run of the Government or in the administration of criminal justice in the State. The petition lodged by such persons cannot be brushed aside on the allegation of a political vendetta, if otherwise, it is genuine and raises a reasonable apprehension of likelihood of bias in the dispensation of criminal justice system. This question has been set at rest by this Court in Sheonandan Paswan v. State of Bihar (1987 1 SCC 288), where it is said:

"It is well established proposition of law that a criminal prosecution, if otherwise justifiable and based upon adequate evidence does not become vitiated on account of mala fides or political vendetta of the first informant or the complainant."

13. In this case, the first accused/second respondent herein was a former Minister of the Government of Tamil Nadu and the petitioner herein intends to prefer a revision and he has stated in paragraph-6 of the affidavit filed before the learned Magistrate as follows:

I submit that the first accused in this case is a Minister of Government of Tamil Nadu. As I am a common citizen has a right to be ruled only by persons whose honesty and integrity in public life is not tainted and also have a duty to maintain the purity of administration of state as a political opponent. If a Minister is acquitted or discharged or convicted by a Criminal Court, it affects the citizen. I intend to file revision against the discharge of the accused from the above cases before the Honourable High Court, Madras. Hence, I require the certified copy of the Complaint, .....

14. This Court holds that the petitioner herein is entitled to file a revision against the order passed by the learned Chief Judicial Magistrate, Cuddalore, discharging the accused/respondents 2 and 3. If the revision petitioner is entitled to file a revision, then he may require the copies of the records of the case.

15. His Lordship Justice G.Rajasuria has observed in CrI.O.P.No.10330 of 2007 as follows:

"8. Be that as it may, in the wake of the above discussion supra, I could tell that even a third party can get a certified copy of the criminal court records and that too in the facts and circumstances involved in this case already set out above over and above, what has



been discussed supra, I would like to refer to the Right to Information Act, 2005 also. Section 8(1) of the Act contemplates exemption from disclosure of information and under that there are various clause, viz., (a) to (i) which contemplates under that circumstances an authority could refuse to furnish information and sub clause(h) deserves mentioning here and it is reproduced here under:

"Information which would impede the process of investigation or apprehension or prosecution of offenders."

The very fact that the Legislature thought fit to incorporate the said Clause (h) would speak volumes to the effect that papers/documents relating to criminal cases are also capable of being given to the public and it could be refused only in the event of the authority concerned finding that such giving of copy would hamper the investigation of the prosecution.

9. Here, the petitioner has not approached this Court for obtaining any document pending investigation or even pending prosecution. The accused were discharged and as on date neither any investigation nor any prosecution is pending and hence, there is no danger of hampering the investigation or prosecution. Not to put too fine a point on it, I may highlight that under the provisions of the Right to Information Act, a third party could obtain certified copy of a Criminal Court record on cost unless it is specifically barred under any of the provisions of that Act."

16. His Lordship Justice M.Jeyapaul in Crl.O.P.No.18533 of 2007 has held as follows:

"9. The question is whether the petitioner, being a third party aggrieved by the order of discharge passed by the Chief Judicial Magistrate in a sensational case under the Prevention of Corruption Act can seek for certified copies of the material records therein. Section 363(6) of the Code of Criminal Procedure reads as follows:-

"The High Court may, by rules, provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions as the High Court may by such rules, provide."

The parliament, in its wisdom, has thought it fit to grant copies of any judgment or order of a Criminal Court even to a third party as per the terms and conditions of the rules framed by the respective High



Court. Unfortunately, our High Court has not framed any rule right from the year 1973. The question that arises for consideration is whether the right of a third party conferred under Section 363(6) of the code of Criminal Procedure to seek certified copies of any judgment or order of Criminal Court can be taken away just because the High Court has not framed necessary rule therein."

10. In the considered opinion of this Court, the failure on the part of High Court in framing rules as indicated by the Parliament cannot take away the valuable right of a third party to obtain a copy of the judgment or order of a Criminal Court. Even when the Parliament has intended something and the High Court has not carried its intention to its logical end, the benevolent provision will have to be necessarily extended to the party entitled to enjoy the right recognised therein. This Court has already held in *D.Jayakumar v. State rep. by the Inspector of Police, Vigilance and Anti-corruption Wing, Dindigul* in Crl.O.P.No.(Md) No.10290 of 2007 by order dated 04.10.2007 that a third party is entitled to certified copies of all the material documents in a criminal case.

11. There is no doubt that all the documents sought for by the petitioner/third party are only public documents. They do not fall under the classified information category. It is not the case of the first respondent State that supply of copies of the criminal records in C.C.No.14 of 2004 would jeopardise the interest of the State. After all the petitioner wants to challenge the order of discharge passed by the learned Chief Judicial Magistrate as a citizen concerned with the criminal administration in the country. Further, the Right to Information Act, 2005 prohibits divulging of information which would impede the process of investigation or apprehension or prosecution of offenders. In other respects, furnishing of information from the court records are not prohibited under the Right to Information Act, 2005.

12. It is true that section 363(6) of the Code of Criminal procedure contemplates only copies of judgment or order of a criminal Court to any third party. When a party concerned can invoke rule 339 of the Criminal Case on payment of stamp duty, the court finds that such a concession also will have to be extended notwithstanding the scope of section 363(6) of the code of Criminal Procedure to third parties also.



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13. Admittedly, the documents are still lying on the file of the Trial Court. It has not reached the portals of the High Court. Order XII Rule 3 of the Rules of High Court Madras Appellate Side, 1965 will apply only in case where the documents have come to the file of the High Court. Further, as rightly pointed out by the learned Government Advocate (Criminal side), the rules of the High Court Madras Appellate Side, 1965 have not been framed by the High Court empowered under section 363(6) of the Code of Criminal Procedure. Therefore, I find without any hesitation that the Rules of High Court Madras Appellate Side, 1965, does not apply to case where a third party seeks certified copies of the records of the Trial Court which have not come to the High Court in connection with any case pending before this Court.

14. The Right to information Act, 2005 created a dent in the so called "privacy" being so far maintained by the authorities concerned. The Courts also will have to be alive to the intendment of the Right to Information Act, 2005 to share vital information to the parties concerned. Any narrower interpretation of the law and imposition of any restriction on the right of the third party to know what is actually going on at the portals of the criminal justice system will not advance the interest of justice. For all these reasons, the court finds that the documents sought for by the petitioners in C.C.No.14 of 2004 will have to be granted to him."

17. In view of the decision already rendered by our High Court cited supra, this Court also finds the documents sought for by the petitioner herein should be furnished.

18. In the result, the order passed by the learned Chief Judicial Magistrate, Cuddalore in C.A.No.145 of 2007 dated 06.11.2007 is set aside and the learned Chief Judicial Magistrate is directed to issue certified copies of the documents, which the petitioner sought for in his application in Special C.C.No.2 of 2006. The Criminal Original Petition is allowed accordingly.

Sd/-  
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ksr

R. Jankavathi  
Superintendent 27/3/2012  
Copyist Department

Bu 0035443



To

1. The Chief Judicial Magistrate,  
Cuddalore.

2. The Deputy Superintendent of Police,  
Vigilance and Anti-corruption Wing,  
Cuddalore.

3. The Public Prosecutor,  
High Court, Madras.

2 ccs to Mr. V. Jayaprakash Narayanan, Advocate, Sr. 32317  
1 cc to Mr. C. Prakasam, Advocate, sr. 32824

CrI.O.P.No.37159 of 2007

KG (CO)  
kk 1/7



Bu 0035449



To

1. The Chief Judicial Magistrate,  
Cuddalore.

2. The Deputy Superintendent of Police,  
Vigilance and Anti-corruption Wing,  
Cuddalore.

3. The Public Prosecutor,  
High Court, Madras.

5 cc to Mr. V. Jayaprakash Narayanan, Advocate, No. 11,  
1 cc to Mr. C. Prakasam, Advocate, No. 12, 12/24

CHITROPAL, 27/3/12

KG (CO)  
KK 1/1

**IN THE HIGH COURT OF  
JUDICATURE AT MADRAS.**

C.D. No. 5094 20.12  
Application made 26-03- 20.12  
Application returned..... 20....  
Application represented..... 20....  
Stamps called for 27-03- 20.12  
Stamps deposited 27-03- 20.12  
Addl. Stamps called for..... 20....  
Addl. Stamps deposited..... 20....  
Copy ready 27/03/ 20.12  
Copy delivered 28/03/ 20.12

 R.J.  
Superintendent.